

## **DRAFT**

# **Amalgamation Policy Guidance Note 2: Leadership of an Amalgamated School**

The process to confirm the appointment of a headteacher is the responsibility of the governing body, and it is for the governing body to determine the appropriate process for their school context.

This guidance note provides information for governing bodies about possible processes. It is recommended that the governing body seeks separate advice, for example from DCSF or governors networks at the time of amalgamation and with reference to the specific circumstances of their school. This will ensure that the advice is current as the guidance may change over time. There is a legal note attached about the legislative context to assist governing bodies.

### **Introduction**

1. In accordance with the local authority amalgamation policy, separate first and middle schools are required to amalgamate to form an all through school (unless there are compelling and overriding reasons not to), when one or more of the trigger criteria are met. One of these circumstances is a vacancy of one or both headteachers.
2. The methodology for amalgamating schools will usually involve the legal closure of one school and the extension of age range and the expansion of capacity of the other school.
3. If both headteacher posts are vacant, the headteacher post for the all through school will be advertised in the usual way.
4. It is for the governing body to determine the process that it wishes to put in place where there is a substantive headteacher at the school that is to remain open.
5. Where there is a substantive headteacher in post, the governing body should seek to avoid any redundancy, while satisfying itself that the individual has suitable qualifications, experience and ability to undertake the role.
6. There are two models that governing bodies may consider applying that fit within employment and education law: ring fencing; and open competition.

### **Ring fencing**

7. The post of headteacher for the combined school is ring fenced to the substantive headteacher. A process is then developed to satisfy the governing body that the postholder has suitable qualifications, experience and ability to undertake the role.
8. This model can accommodate a developmental approach and focus on the developmental needs of the individual headteacher. This could be similar to the annual performance review process and include the setting of performance targets.
9. Alternatively a process could be adopted that is an interview process more aligned to a competition approach.

### **Open Competition**

10. This model involves advertising the headteacher post. The governing body could also decide to apply this model if a ring fencing process did not confirm the leadership.

### **Job Description**

11. The amalgamation policy guidance recommends that once statutory proposals to create an all through school have been determined by Cabinet, a representative working group with membership from both schools is established by the governing bodies to lead on detailed implementation work. This working group should draft the headteacher job description, in line with teachers' pay and conditions and taking into consideration the leadership needs for the all through school. This may include, for example, the number of pupils, staffing, resources, change management skills etc. This could be supported by an information pack that outlines the proposals for the all through school e.g. governing body, any vision statements, implementation plans that have been developed, etc.

### **Confirmation of Leadership**

12. The governing body would need to confirm the school group size and the individual school range that will inform the salary of the headteacher.

## Legal Note

The following is an outline of how headteacher appointments are made:

### Education Act 2002

1. Section 35 Education Act 2002 contains provisions regarding the staffing of community schools. This includes headteachers. (s35(3)).
2. S35 (2) Education Act 2002 provides that the employer is the local education authority (LEA).
3. S35(4) Education Act 2002 enables the Secretary of State to make **regulations** related to the appointment, discipline, suspension and dismissal of staff (including headteachers).
4. S35(8) Education Act 2002 states that in discharging any function conferred by regulation under s35(4), the LEA or governing body of a maintained school shall have regard to any **guidance** given from time to time by the Secretary of State.

### School Staffing (England) Regulations 2003

5. These regulations are made under s 35(4) Education Act 2002.
6. S13 of the regulations details the procedure for appointing a headteacher. The essential elements are:
  - (a) the governing body (GB) notifies the LEA of a vacancy for the headteacher;
  - (b) the GB must advertise the vacancy in such a manner as it considers appropriate;
  - (c) the GB must appoint a selection panel of at least 3 to determine which applicants to interview;
  - (d) the selection panel must notify the LEA in writing of the names of the applicants selected for interview;
  - (e) the LEA has 7 days to make written representations to the selection panel in relation to any applicant it considers, if appointed would have a detrimental effect on the performance, management or conduct of the school;
  - (f) the selection panel must consider these representations;
  - (g) the selection panel must interview the applicants and where appropriate recommend to the GB for approval one of the applicants so interviewed;
  - (h) if the selection panel recommends appointing an applicant about whom the LEA has made representations, then the selection panel must notify the GB and the LEA in writing of its reasons;

- (i) where the selection panel's recommendation is approved by the GB, the LEA **must** appoint the person provided that the appointee's identity has been checked; s/he meets all the relevant staff qualification requirements; and s/he has the right to work in the UK; alternatively, the GB can engage the appointee, but not under a contract of employment;
  - (j) If the GB declines to approve the person recommended by the selection panel, or the LEA declines to appoint the person recommended by the GB, the selection panel may select another person.
7. However, if the GB has good reason not to advertise and conduct a selection process to fill the vacancy, the LEA must appoint the person identified to fill the vacancy providing that the conditions in 6(i) above apply. A "good reason" is defined in **the guidance** paraphrased in paragraphs 8-12 below as including school reorganisations.

### **Staffing guidance under section 35(8) Education Act 2002**

8. Inter alia, this guidance deals with headteacher appointments and school reorganisations.
9. In the preamble, it states that where 'should' is used, it is intended that this is the course that is followed and any deviation should only be for very good reason.
10. The guidance is not exhaustive nor does it contain detailed advice about the process of appointing staff including arrangements for assessing headteacher candidates.
11. The guidance states that the GB of a new or merged school resulting from a reorganisation should normally advertise the new headteacher post nationally to ensure that the best available candidates are considered.
12. However the GB of the new or merged school may take the view that the post of headteacher is not in effect vacant (this is not further defined), in which case it shall not be subject to the advertising and selection requirements if the following conditions apply:
- (a) the new or merged school is formed from the immediately pre-existing schools;
  - (b) for each headteacher (or deputy) post available in the new or merged school, there is only one person from the pre-existing schools available for continued employment in that role in the new school and that person's performance and ability is highly regarded by both the GB and the LEA;
  - (c) that person has suitable qualifications, experience and ability to undertake the role in the new or merged school.